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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,164	11/12/2003	Leon James Scott III	249-0018US	7567

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EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/706,164	Applicant(s) SCOTT ET AL.	
	Examiner Bryon P. Gehman	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/03</u> | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 8, "when the box is assembled" is indefinite, as applicant is claiming the box as a box. Is it it not already assembled then? In line 9, "the second panel" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-4, 10, 13 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartley (2,822,972). Claims 1-3, 5, 10, 13-14, 16-17 and 20-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Zulauf et al. (4,865,187). Claims 1, 3-4, 6, 10-13, 15, 20-21 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferreri et al. (4,946,042). Claims 1-4, 7-8, 10, 13-18 and 20-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenbaum (6,158,579). Claims 1, 3-4, 10, 13, 15 and 20-24 are rejected under 35 U.S.C. 102(e) as being

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anticipated by Cochrane (6,405,921). Each discloses a box comprising a first side (14 and 18 and 18; 14; 40; 47-52; 11b; respectively) having a first flap (14; 22; 43-45; 62; 13a), a second side (15-16; 16; 30; 20; 12) having a second flap (15; 23; 34; 36; as shown at either side of 12 at 46), a first panel portion (20 in 14; perforated portion of 14; portion of 40 defined by 51-53; 47; 13a) and a second panel portion (20 in 13; perforated portion of 22; 43; 36a; 12 at 47), a portion of the second flap positioned adjacent the second panel portion.

As to claims 2, 14 and 22-23, Zulauf et al. and Rosenbaum each disclose the first panel portion with a removed or removable corner (19; 54).

As to claims 3, 15 and 24, each discloses a common edge (11; at 13; 40B; 58; between 13a and 12 at 47).

As to claims 4 and 15, all but Zulauf et al. disclose the first and second panel portions removed together.

As to claims 5 and 16, Zulauf et al. disclose the common edge being separable.

As to claims 6 and 11-12, Ferreri et al. disclose a removable corner (38 or 67).

As to claims 7-8, 17-18 and 25-26, Rosenbaum discloses a third panel portion (19) defining a handle member.

As to claim 13, each discloses a first panel (20; 14; defined by perforation lines 46-47 and 51-53; 47 and 62; 13a and perforated 12 at 47) formed by perforations.

As to claim 20, all but Hartley disclose first means (at 14; at 40; at 47; at 13a), second means (at 22; at 43; at 62; at 12) and third means (at 23; at 38; at 36a and 36b; at 12 at 46) are disclosed.

As to claim 21 all but Hartley disclose the first and second means including means for removing both means, with Zulauf et al. disclosing removing either means.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferreri et al. in view of either one of Zulauf et al. and Rosenbaum. Zulauf et al. and Rosenbaum each disclose the first panel portion with a removed or removable corner (19; 54). To modify the box of Ferreri et al. employing the removed corner teaching of either one of Zulauf et al. and Rosenbaum would have been obvious in order to facilitate removing of the perforated panel.

7. Claims 6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenbaum in view of Ferreri et al.. Ferreri et al. disclose a removable corner (38 or 67). To modify the box of Rosenbaum employing the removable corner teaching of Ferreri et al. would have been obvious in order to selectively secure the panels to one another, facilitating removing of the removable panel.

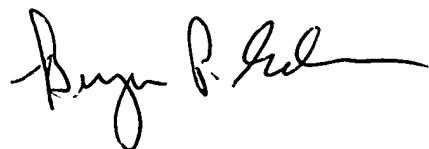
8. Claims 9, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Ferreri et al. and Rosenbaum et al. in view of Brown (581,900). Brown

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discloses providing a first flap (e') with a deformable corner and a second flap (C) with a slot to receive the deformable corner. To modify the flaps of either one of Ferreri et al. and Rosenbaum et al. employing the locking slot teaching of Brown would have been obvious in order to secure the flaps without adhesive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG